

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 481

Introduced by Senator Hueso

February 26, 2015

An act to amend Section 1236 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 481, as amended, Hueso. ~~Internal auditors:~~ *Local government: auditors: independence.*

Existing law requires, with certain exceptions, that all city, county, city and county, and district employees who conduct audits or that conduct audit activities of those respective agencies, conduct their work under the general and specified standards prescribed by the Institute of Internal Auditors or the Government Auditing Standards issued by the Comptroller General of the United States, as appropriate. ~~A willful violation of these provisions is a crime. Those standards generally provide, among other things, that auditors should be independent of the activities they audit. Existing law makes every willful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision is made for the punishment of that delinquency, a crime.~~

~~This bill would recast these provisions to prohibit these internal audit employees from working under the direct oversight of the general counsel or employees of the agency that they audit. The bill would require these employees to conduct their work under conditions that ensure their independence, as prescribed, including, but not limited to, the requirement that the head of the auditing unit, branch, or group for which he or she works be answerable directly to the head, deputy head,~~

~~or governing board of the governmental agency being audited, is given direct access to that person or persons, as applicable, and is required to report the audit results to head, deputy head, or governing board.~~

This bill would prohibit the general counsel of the city, county, city and county, or district, or the employees of the general counsel from having direct oversight over the city, county, city and county, and district employees that conduct audits or that conduct audit activities of those respective agencies. This bill would also prohibit all city, county, city and county, and district employees that conduct audits or that conduct audit activities of those respective agencies from being required to report to the general counsel or any employees of the general counsel.

This bill would require that all city, county, city and county, and district employees that conduct audits or that conduct audit activities of those respective agencies be considered to conduct their work under conditions that ensure independence, if the head of the auditing unit, branch, or group for which the employee works meets specified criteria.

By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 1236 of the Government Code is amended~~
- 2 ~~to read:~~
- 3 ~~1236. (a) A city, county, city and county, and district employee~~
- 4 ~~who conducts audits or who conducts audit activities of those~~
- 5 ~~respective agencies shall conduct his or her work under conditions~~
- 6 ~~that ensure independence. The employee shall not work under the~~
- 7 ~~direct oversight of the general counsel or employees of the audited~~
- 8 ~~agency.~~
- 9 ~~(b) A city, county, city and county, and district employee who~~
- 10 ~~conducts internal audit under the direction of the audited agency's~~
- 11 ~~management shall be considered independent for the purposes of~~
- 12 ~~subdivision (a) if all of the following conditions are met:~~

1 ~~(1) The head of the auditing unit, branch, or group for which~~
2 ~~the internal auditor described in subdivision (a) works, meets all~~
3 ~~of the following criteria:~~

4 ~~(A) He or she is answerable directly to the head, deputy head,~~
5 ~~or governing board of the governmental agency being audited, and~~
6 ~~is given direct access to that person or persons, as applicable.~~

7 ~~(B) He or she is required to report the audit results to the head~~
8 ~~or deputy head of the agency being audited, or to the governing~~
9 ~~board of that agency.~~

10 ~~(C) He or she is organizationally placed outside of the staff or~~
11 ~~line-management function of the unit or function being audited.~~

12 ~~(D) He or she is, as much as practicable, administratively~~
13 ~~situated in a manner that provides insulation from political or other~~
14 ~~pressures that could affect his or her ability to conduct audits and~~
15 ~~report findings, opinions, and conclusions objectively without fear~~
16 ~~of political or other reprisal.~~

17 ~~(2) The internal auditor conducts his or her work under the~~
18 ~~general and specified standards prescribed by the Institute of~~
19 ~~Internal Auditors or the Government Auditing Standards issued~~
20 ~~by the Comptroller General of the United States, as appropriate.~~
21 ~~The standards generally provide as follows:~~

22 ~~(A) That auditors should be independent of the activities they~~
23 ~~audit.~~

24 ~~(B) That audits should be performed with proficiency and due~~
25 ~~professional care.~~

26 ~~(C) That the scope of the audit should encompass the~~
27 ~~examination and evaluation of the adequacy and effectiveness of~~
28 ~~the organization's system of internal control and the quality of~~
29 ~~performance in carrying out assigned responsibilities.~~

30 ~~(D) That audit work should include planning the audit,~~
31 ~~examining and evaluating information, communicating results,~~
32 ~~and following up.~~

33 ~~(E) That the chief auditor should properly manage the auditing~~
34 ~~department.~~

35 ~~(e) Nothing in this section is intended to limit the rights or~~
36 ~~obligations of auditors to conduct audits and audit activities in~~
37 ~~accordance with other laws and regulations that may apply to a~~
38 ~~particular entity, as appropriate.~~

39 ~~SECTION 1. Section 1236 of the Government Code is amended~~
40 ~~to read:~~

1 1236. (a) All city, county, city and county, and district
2 employees that conduct audits or that conduct audit activities of
3 those respective agencies shall conduct their work under the general
4 and specified standards prescribed by the Institute of Internal
5 Auditors or the Government Auditing Standards issued by the
6 Comptroller General of the United States, as appropriate. The
7 standards generally provide as follows:

8 (1) That auditors should be independent of the activities they
9 audit.

10 (2) That audits should be performed with proficiency and due
11 professional care.

12 (3) That the scope of the audit should encompass the
13 examination and evaluation of the adequacy and effectiveness of
14 the organization's system of internal control and the quality of
15 performance in carrying out assigned responsibilities.

16 (4) That audit work should include planning the audit, examining
17 and evaluating information, communicating results, and following
18 up.

19 (5) That the chief auditor should properly manage the auditing
20 department.

21 (b) Nothing in this section is intended to limit the rights or
22 obligations of auditors to conduct audits and audit activities in
23 accordance with other laws and regulations that may apply to a
24 particular entity, as appropriate.

25 (c) *The general counsel of the city, county, city and county, or*
26 *district, or the employees of the general counsel shall not have*
27 *direct oversight over the city, county, city and county, or district*
28 *employees that conduct audits or that conduct audit activities of*
29 *the respective agency. All city, county, city and county, and district*
30 *employees that conduct audits or that conduct audit activities of*
31 *those respective agencies shall not be required to report to the*
32 *general counsel or any employees of the general counsel.*

33 (d) *All city, county, city and county, and district employees that*
34 *conduct audits or that conduct audit activities of those respective*
35 *agencies shall be considered to conduct their work under*
36 *conditions that ensure independence if the head of the auditing*
37 *unit, branch, or group for which the employee works meets all of*
38 *the following criteria:*

1 *(1) He or she is answerable directly to the head, deputy head,*
2 *or governing board of the governmental agency being audited,*
3 *and is given direct access to that person or persons, as applicable.*

4 *(2) He or she is required to report the audit results to the head*
5 *or deputy head of the agency being audited, or to the governing*
6 *board of that agency.*

7 *(3) He or she is organizationally placed outside of the staff or*
8 *line-management function of the unit or function being audited.*

9 *(4) He or she is, as much as practicable, administratively*
10 *situated in a manner that provides insulation from political or*
11 *other pressures that could affect his or her ability to conduct audits*
12 *and report findings, opinions, and conclusions objectively without*
13 *fear of political or other reprisal.*

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.